



State of Wisconsin
2021 - 2022 LEGISLATURE

LRBs0341/1
EAW:amn

**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 595**

January 28, 2022 - Offered by Senator STROEBEL.

1 **AN ACT** *to create* 48.415 (3m) of the statutes; **relating to:** termination of
2 parental rights in cases of parental incarceration.

Analysis by the Legislative Reference Bureau

Under current law, in a proceeding for involuntary termination of parental rights (TPR), the juvenile court must determine whether grounds exist for TPR. This bill creates a new ground for TPR based on parental incarceration, which must be established by proving all of the following:

1. That the parent has been convicted of a crime that would disqualify him or her from participation in certain earned release programs and is incarcerated at the time of the fact-finding hearing for TPR.

2. That the child is 14 years old or younger and the parent is likely to be incarcerated for more than 50 percent of the child's remaining minority.

3. That, while the parent is incarcerated, the child has been adjudged to be in need of protection or services and placed outside the child's home pursuant to one or more court orders containing notice of the grounds for TPR.

4. That, during incarceration, the parent has failed to maintain a parental relationship with the child.

5. That no appeal is pending in the parent's criminal case at the time that the fact-finding hearing is held for the TPR.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 48.415 (3m) of the statutes is created to read:

2 48.415 (3m) PARENTAL INCARCERATION. Parental incarceration, which shall be
3 established by proving all of the following:

4 (a) That the child is 14 years of age or younger at the time the petition to
5 terminate parental rights is filed, has been adjudged to be in need of protection or
6 services, and, while the parent is incarcerated, has been placed, or continued in a
7 placement, outside his or her home pursuant to one or more court orders under s.
8 48.345, 48.357, 48.363, or 48.365 containing the notice required under s. 48.356 (2).

9 (b) That the parent has been convicted of a crime specified in ch. 940 or s.
10 948.02, 948.025, 948.03, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08,
11 948.085, or 948.095 and sentenced to prison for a period of confinement that is likely
12 to exceed 50 percent of the child's remaining minority.

13 (c) That no appeal of the parent's conviction is pending at the time of the
14 fact-finding hearing.

15 (d) That, during incarceration, the parent has failed to maintain a parental
16 relationship with the child. In evaluating whether the person has failed to maintain
17 a parental relationship with the child, the court may consider whether the person
18 has expressed concern for or interest in the support, care, or well-being of the child
19 and whether the person has communicated or attempted to communicate with the
20 child.

21 **SECTION 2. Nonstatutory provisions.**

